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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,419	08/15/2003	Marc Blumer	EFIM0073C1	1456
31408	7590	10/06/2006	EXAMINER	
LAW OFFICE OF JAMES TROSINO 92 NATOMA STREET, SUITE 211 SAN FRANCISCO, CA 94105			JOSEPH, JAISON	
			ART UNIT	PAPER NUMBER
			2611	

DATE MAILED: 10/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/642,419	<b>Applicant(s)</b> BLUMER, MARC	
	<b>Examiner</b> Jaison Joseph	<b>Art Unit</b> 2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 August 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Specification***

The disclosure is objected to because of the following informalities: In the Reference to related applications, the US Patent number should be provided.

Appropriate correction is required.

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Claim Objections***

Claim 1 is objected to because of the following informalities: Claim 1, line 6 recite "a clock signal" should have been "the clock signal". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Butaud et al (US Patent 6,737,904).

Regarding claim 1, Butaud et al teach a spread spectrum for generating a reduced amplitude clock pulse from an original primary clock pulse, the system comprising; a clock signal generator for creating a series of clock pulses (see figure 2, System clock 52); a non-delayed line adapted to receive the series of clock pulses from the clock signal generator (see figure 2, the first signal line between component 52, and 56), a delay line comprising a delay time adapted to cause a clock signal transmitted to the delay line to be outputted after passage of the delay time (see figure 2, component 54), and a multiplexer a non-delay line input , a delay line input and an output, wherein the multiplexer receives output directly from the non-delayed line and the delay line (see figure 2, component 56), a state machine adapted to cause the multiplexer to select either the non-delayed line or the delayed line (see figure 2, component 68).

Regarding claim 2, Butaud et al teach a method for generating a clock input signal with reduces amplitude electromagnetic interference spectral components, comprising providing a means for generate a series of clock pulses (see figure 2, component 52), generating a serried of clock pulses (see the output of component 52), digitally demodulating the clock pulse by spreading the energy of the each clock pulse over a greater bandwidth (see figure 2, components 54, 56, 68) and generating a digitally modulated clock output signal (see figure 2, components 54, 56, 68 and the output signal of component 56).

Regarding claim 3, Butaud et al teach a clock circuit generating a clock signal with reduced amplitude electromagnetic interference spectral components comprising, oscillator means for generating a primary clock signal, wherein the primary clock signal

has a fundamental frequency with a fundamental amplitude (see figure 2, component 52), spread spectrum clock generating means cooperating with oscillator means for generating a spread spectrum clock output signal having a nominal frequency and reduced amplitude EMI spectral components at harmonics of nominal frequency, wherein the nominal frequency is substantially equivalent to the fundamental frequency, and wherein the nominal amplitude is lower than the fundamental amplitude (see figure 2, components 52, 54, 56, 64, 68, 58,).

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1 – 3 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 9, 13 and 1 of U.S. Patent No. 6,643,317

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respectively. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1 – 3 of the instant application merely broadens the scope of the claims 9,13 and 1 of the Patent 6,643,317 by eliminating the elements and their functions of claims of the instant application. The preamble of the Patent recites, a spread spectrum system for generating a reduced amplitude clock pulse from an original primary clock pulse. However, it would to one of ordinary skilled in the art at the time the invention was made to realize that both inventions used to generate a reduced amplitude clock pulse from an original primary clock pulse. It has been held that the omission an element and its function is an obvious expedient if the remaining elements perform the same function as before. *In re Karlson*, 136 USPQ 184 (CCPA). Also note *Ex parte Rainu*, 168 USPQ 375 (Bd.App.1969); omission of a reference element whose function is not needed would be obvious to one skilled in the art.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jaison Joseph whose telephone number is (571) 272-6041. The examiner can normally be reached on M-F 9:30 - 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chieh Fan can be reached on (571) 272-3042. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jaison Joseph  
09/28/2006

A handwritten signature in black ink, appearing to read 'Jaison Joseph', with a horizontal line drawn underneath it.

**DACHA**  
**PRIMARY EXAMINER**